

RESOLUTION NUMBER R- 307245

DATE OF FINAL PASSAGE JAN 24 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO, CALLING SPECIAL MAILED-BALLOT ELECTION
WITHIN CONVENTION CENTER FACILITIES DISTRICT
NO. 2012-1, CITY OF SAN DIEGO, COUNTY OF SAN DIEGO,
STATE OF CALIFORNIA

WHEREAS, the City Council of the City of San Diego (City), on December 6, 2011, adopted its Resolution No. 307193 (Resolution of Intention) and its Resolution No. 307194 (Resolution to Incur Bonded Indebtedness) thereby initiating proceedings for consideration of the establishment of a convention center facilities district under and pursuant to the terms and provisions of San Diego Municipal Code Chapter 6, Article 1, Division 27 (Division), to be known and designated as "Convention Center Facilities District No. 2012-1, City of San Diego, County of San Diego, State of California" (Convention Center Facilities District); and

WHEREAS, both the Resolution of Intention and the Resolution to Incur Bonded Indebtedness set public protest hearings to be held concurrently on January 24, 2012, (Public Hearing); and

WHEREAS, at the close of the Public Hearing, the City Council determined that there was no majority protest under the provisions of the Division; and

WHEREAS, at the conclusion of the Public Hearing, the City Council adopted San Diego Resolution No. ^{R-}307243 establishing the Convention Center Facilities District (Resolution of Formation) pursuant to Section 53325.1 of the "Act" (as defined in the Division), and San Diego Resolution No. ^{R-}307244 Deeming It Necessary To Incur Bonded Indebtedness (Resolution Deeming it Necessary to Incur Bonded Indebtedness) pursuant to Section 53351 of the Act; and

WHEREAS, in order (1) to confer authorization upon the City Council to proceed with the levy of the special tax as specified in the Resolution of Formation; (2) to establish an appropriations limit for the Convention Center Facilities District, as provided by the Resolution of Formation, and (3) to confer authorization upon the City Council to incur indebtedness as provided by the Resolution Deeming it Necessary to Incur Bonded Indebtedness, the three matters must be submitted to an election of the qualified electors of the Convention Center Facilities District; and

WHEREAS, the three questions just described may be combined into a single ballot measure pursuant to Section 53353.5 of the Act, as provided in the form of special election ballot attached hereto as Exhibit A and by this reference incorporated herein; and

WHEREAS, there has been submitted to the City Clerk a Recommendation Re: Allocation of Votes (Recommendation) prepared by Willdan Financial Services, Special Tax consultant to the City, in which they report they solicited from the Landowners (as that term is defined in section 61.2705 of the Division) and hotel operators information necessary to determine whether the adjustments provided for in section 61.2710(c) of the Division should be made to the standard method of allocating votes specified that section (using the 12-month period specified in the Resolution of Intention), on the basis that any hotel was “not operated during the whole of that 12-month period, or was operated at less than normal capacity due to remodeling or construction or reconstruction or any other cause;” and

WHEREAS, the Recommendation indicates that information seeking adjustments was submitted with respect to six hotels; that the information was reviewed and investigated; that adjustments were thought to be warranted in five cases as explained in the Recommendation; and

WHEREAS, the Recommendation recommends that all Landowners within the Convention Center Facilities District be allocated votes using the procedure specified in section 61.2710(c) of the Division without adjustment, except in the cases of the hotels mentioned in the previous paragraph, and that votes be allocated to those Landowners as described in the Recommendation; and

WHEREAS, the City Council is fully advised in this matter; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

1. That this Resolution is adopted pursuant to the provisions of the Division and other applicable laws.
2. That the City Council hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to municipal affairs of the City and that the statements, findings, and determinations of the City Council set forth above are true and correct.
3. That the City Council accepts the Recommendation filed in these proceedings and approves allocating votes in accordance therewith. This determination is final pursuant to section 61.2710(c) of the Division. Since the number of votes assigned to each Hotel may be considered to contain proprietary commercial information, and is of a type required to be treated as confidential pursuant to San Diego Municipal Code section 35.0114, the City Clerk shall protect the confidentiality of the number of votes assigned to each Landowner. No persons, other than those among the staff and consultants of the City who require access for the purposes of conducting the election, may have access to those numbers at any time without the approval of the City Attorney, unless by order of a court of competent jurisdiction.
4. That pursuant to section 61.2710 of the Division and Sections 53326 and 53351 of the Act, and California Elections Code section 12001, the City Council hereby calls a special

election to be held and conducted upon adoption of this Resolution, and sets April 23, 2012, as the election date.

5. That the proposition to be submitted to the qualified electors of the Convention Center Facilities District shall be as set forth in the form of special election ballot attached hereto as Exhibit A.

6. That the City Clerk as the official designated to conduct the special mailed-ballot election pursuant to the Division, is authorized and directed to conduct the election pursuant to the Division and California Elections Code sections 307 and 320 and the following provisions:

(a) The special election shall be held and conducted, and the votes canvassed and the returns made, and the results determined, as provided herein; and in all particulars not prescribed by this Resolution the special election shall be held and conducted and the votes received and canvassed in the manner provided by law for the holding of special elections consistent with the Division.

(b) All Landowners (as defined in section 61.2705 of the Division) within the Convention Center Facilities District as of the close of the Public Hearing shall be qualified to vote upon the proposition to be submitted at the special election.

(c) Pursuant to authority granted by Section 53326 of the Act, the election shall be conducted by mailed ballot, there shall be no polling places for the special election, and 8:00 p.m. on the election date is set as the deadline for returning ballots.

(d) The City Clerk is authorized and directed to publish the notice of election, in substantially the form attached hereto as Exhibit B, as soon as possible, in the *SAN DIEGO DAILY TRANSCRIPT*.

(e) The deadline for ballot arguments for or against the ballot measure, not to exceed 300 words in length, to be submitted to the City Clerk in accordance with Elections Code section 9282 is hereby established as February 7, 2012, in accordance with California Elections Code section 9286. If opposing arguments are submitted, the City Clerk shall send a copy of an argument in favor of the ballot measure to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments. The deadline for submission of rebuttal arguments, not to exceed 250 words in length, to the City Clerk is hereby established as February 17, 2012, in accordance with California Elections Code section 9285.

(f) The City Attorney is authorized and directed to prepare and submit to the City Clerk an impartial analysis of the ballot measure pursuant to California Elections Code section 9280. Formation Counsel is authorized to assist the City Attorney.

(g) The City Clerk shall prepare the ballots pursuant to Section 53326(c) of the Act as modified by section 61.2710 of the Division, including the specification of the number of votes assigned to each ballot, and to mail the ballots, and to prepare and to mail the ballot pamphlets, pursuant to California Elections Code sections 3010, 3011, 3023, and 4101.

(h) Each voter desiring to vote in favor of the proposition to be submitted at the special election shall mark a cross (x) or similar mark in the blank space next to the word "YES" on the ballot to the right of the proposition; and each voter desiring to vote against the proposition shall mark a cross (x) or similar mark in the blank space next to the word "NO" on the ballot to the right of the proposition. The cross (x) or similar mark may be marked with either pen or pencil, and shall cast all of the votes assigned to that ballot.

(i) All ballots shall be mailed by the City Clerk to the Landowners no sooner than March 25, 2012, and no later than April 13, 2012, and all voted ballots are required to be received by the City Clerk not later than 8:00, p.m., on the day of the election in order to be counted.

(j) The City Clerk shall commence the canvass of the returns of the special election as soon as possible, and shall report the returns to the City Council at its next meeting following the conclusion of the canvass.

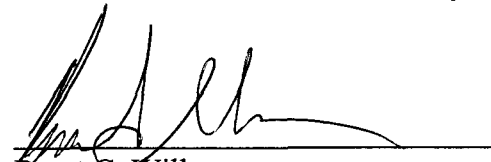
(k) The City Council may thereupon declare the results of the special election, and shall cause to be spread upon its minutes a statement of the results of the special election as ascertained by the canvass.

(l) Since the number of votes assigned to each ballot may be considered to contain proprietary commercial information, and is of a type required to be treated as confidential pursuant to Municipal Code section 35.0114, and since the Landowners are entitled to a secret ballot, the City Clerk shall protect the confidentiality of the ballots. No persons, other than those among the staff and consultants of the City who require access for the purposes of conducting the election, may have access to the ballots at any time without the approval of the City Attorney, unless by order of a court of competent jurisdiction.

Section 7. Pursuant to San Diego Charter sections 275(c), 295(b) and 295(d), this resolution relating to elections may be passed by the City Council on the date of introduction, which date shall be deemed the date of final passage, and is not subject to veto by the Mayor.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Brant C. Will
Deputy City Attorney

BCW:jab:jdf
1/9/2012
1/27/2012 COR.COPY
Or.Dept: Debt Mgmt.
Exhibits
Doc. No.: 300645_2

EXHIBIT A

CONVENTION CENTER FACILITIES DISTRICT NO. 2012-1
CITY OF SAN DIEGO,
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

SPECIAL ELECTION BALLOT
(Mailed-Ballot Election)

This ballot is for the use of the authorized representative of the following Landowner (owner of land or lessee of land owned by a public agency) within Convention Center Facilities District No. 2012-1, City of San Diego, County of San Diego, State of California (Convention Center Facilities District):

Name of Landowner

Total Votes

[]

According to the provisions of San Diego Municipal Code Chapter 6, Article 1, Division 27 (Division), and resolutions of the City Council (Council of the City of San Diego (City)), the above-named Landowner is entitled to cast the number of votes shown above under the heading "Total Votes," representing the total votes for the property owned by the Landowner.

In order to be counted, this ballot must be executed and certified below and be returned to the City Clerk, by mail or in person, to be received by the City Clerk prior to 8:00 p.m. on April 23, 2012, at the San Diego City Administration Building, 2nd floor, 202 "C" Street, San Diego, California.

Mailing by that time will not be sufficient. This ballot must be received by the time stated in order to be counted.

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk and obtain another.

BALLOT MEASURE

Shall the San Diego Convention Center Facilities District authorize the San Diego City Council to levy a special tax, and issue not to exceed \$575,000,000 in bonds secured thereby and by other revenues, to finance the contiguous expansion, construction, reconstruction, rehabilitation, equipping, replacement and upgrade of the San Diego Convention Center and related expenditures, and establish the appropriations limit for the District, all as specified in City of San Diego Resolutions _____ and _____ adopted January 24, 2012?

MARK "YES" OR "NO"
WITH AN "X":

YES: ☐

NO: ☐

Certification for Special Election Ballot

The undersigned is the authorized representative of the above-named Landowner and is a person legally authorized and entitled to cast this ballot on behalf of the above-named Landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2012.

Signature

Print Name

EXHIBIT B

CONVENTION CENTER FACILITIES DISTRICT NO. 2012-1
CITY OF SAN DIEGO,
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

NOTICE OF ELECTION

Notice is hereby given that a mailed-ballot, landowner-vote election will be held within the above-entitled Convention Center Facilities District within the City of San Diego with ballots returnable to the Office of the City Clerk of the City of San Diego until 8:00 p.m. on April 23, 2012. There will be no polling places, and the ballots are to be tallied at the Office of the San Diego City Clerk.

The Convention Center Facilities District was formed under San Diego Municipal Code Chapter 6, Article 1, Division 27 (Division). Only owners of properties within the Convention Center Facilities District that will be subject to the special tax if the ballot measure is passed are eligible to vote. The only properties within the Convention Center Facilities District that would be subject to the special tax are hotel properties (as defined in the Division) within the City of San Diego. Under the Division, votes are allocated to the owners of hotel property in proportion to the estimated tax burden each would bear if the special tax is approved. There is an exception to the foregoing if the property is owned by a public governmental agency; in that event only the leasehold interest is subject to the special tax and the holder of that leasehold interest is considered the owner for purposes of voting.

The measure to be voted upon is as follows:

Shall the San Diego Convention Center Facilities District authorize the San Diego City Council to levy a special tax, and issue not to exceed \$575,000,000 in bonds secured thereby and by other revenues, to finance the contiguous expansion, construction, reconstruction, rehabilitation, equipping, replacement, and upgrade of the San Diego Convention Center and related expenditures, and establish the appropriations limit for the District, all as specified in City of San Diego Resolutions _____ and _____ adopted January 24, 2012?

Ballot arguments, not exceeding 300 words in length, for or against the ballot proposition, must be received by the City Clerk by close of business on February 7, 2012, in order to be eligible for inclusion in the ballot pamphlet.

Dated: January __, 2012

ELIZABETH S. MALAND, City Clerk